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DIRECTORATE OF
INTELLIGENCE

Intelligence Memorandum

Panama: 1973 - The Year of the Treaty?

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CENTRAL INTELLIGENCE AGENCY

Directorate of Intelligence

28 November 1972

INTELLIGENCE MEMORANDUM**PANAMA: 1973—The Year of the Treaty?**

The current round of canal negotiations which began in June 1971 has been stalled for the past eight months, in part because General Torrijos was unwilling to commit himself on substantive issues or allow the talks to move from an exploratory to a bargaining phase. Having solidified his position and legitimized his rule, Torrijos can now begin to focus on the canal issue. The gulf between the Panamanian and US positions is substantial, but Panama apparently believes that the US can be pressured into offering additional concessions. Negotiations will probably resume in Panama in the near future.

Torrijos has approached the negotiations with ambivalence and apprehension. Panama's position as he perceives it is one of moral superiority, but material and tactical inferiority. He believes that international opinion supports Panamanian aspirations for control of the Canal Zone and that even the US public, if it could only be informed, would regard the current situation as anachronistic. On the other hand, aside from his ability to embarrass Washington, Torrijos realizes that Panama has relatively little bargaining leverage. Most of the give is on the US side, most of the get is on the Panamanian side.

Because Torrijos does not approach the negotiations as an equal with equivalent points to concede, he seems deeply suspicious of the normal negotiating process. He apparently sees the canal issue more as a political rather than a diplomatic problem. As such, it would require a broad agreement on principles blocked out at the top with only the details left for the diplomatic technicians to handle.

Despite suggestions from the US and his own foreign policy advisers that he develop a completed position on all issues, Torrijos thus far has

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retained maximum flexibility and has only limned some of the basic ingredients of the new treaty. There are, of course, certain points that Torrijos regards as essential to any agreement: a definite termination date for a new treaty after which the canal would be turned over to Panama; full Panamanian jurisdiction over the Canal Zone, including an immediate end to trials of Panamanians in US courts. On a number of other issues, such as compensation, a status of forces agreement, and land use, Torrijos has not yet made up his mind, but these issues appear to be negotiable.

A major impediment to an agreement is the inability of Torrijos' aides to persuade him that a US offer is a good one or that it is firm and final. Afraid of being outmaneuvered, he is probably unwilling to trust any outline of the US position that does not come directly from the highest levels of government. Also, he has tended to believe that threats and pressure might bring greater concessions. Over the past few months Panama has attempted to lay the groundwork for the possible application of such pressure. Panamanian ambassadors around the world have publicized Panama's side on the canal issue, Panamanian representatives have sought support at various international conferences, and a major effort has been made to have the United Nations Security Council meet in Panama City in March.

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Preparations for Negotiation

To negotiate or not to negotiate has never been the problem. Instead, when to negotiate, where to negotiate, how to negotiate, and what to negotiate have been the questions. It took the Torrijos government a year to find answers to the first two questions and another year to resolve the third. The fourth question still appears to be the object of continuing discussion, if not confusion.

Torrijos inherited the canal problem at a most difficult time. Panamanian dissatisfaction with the 1903 treaty had culminated in bloody rioting in January 1964. A number of Panamanians and US soldiers were killed, and subsequently Panama broke relations with the US and complained to the UN and the OAS. In April, relations were resumed, and representatives of both countries initiated discussions on means of eliminating sources of conflict. In December, President Johnson announced that the US was prepared to negotiate a new treaty, and for nearly three years an arrangement that would satisfy Panamanian aspirations without impairing US security interests was sought. Finally, in June 1967, Presidents Johnson and Robles announced agreement on three draft treaties: one on the present canal, one on US military base rights and status of forces, and on a new sea-level canal.

Panama never acted on the draft treaties, which had quickly come under intense political fire. The Robles government became involved in the bitterly fought campaign preceding the May 1968 presidential election, and Arnulfo Arias, who won the election, barely had time to adjust his presidential sash before he fell victim to the military coup that brought Torrijos to power in October 1968.

The 1967 drafts made major concessions to Panama. They voided the hated perpetuity clause, and called for the cession of the lock canal to Panama by the year 2000 and the reversion of a proposed sea-level canal by the end of 2067. Panama would have promptly received land and water areas no longer needed for defense or canal operations. The fixed annuity of about \$2 million was done away with, and, in its place, Panama was awarded a royalty on tonnage passing through the canal which at present transit levels would have yielded approximately \$24.4 million in fiscal 1972. Nevertheless, the agreement was criticized and later rejected because instead of giving Panama full sovereignty over the Canal area, a foreign enclave under a joint US-Panamanian administration in which Panama was a minority partner was to be continued. It was also hit because it did not commit the US to build a sea-level canal and because it perpetuated the large US military presence.

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Without concerning himself at all with the merits of the case, Torrijos seems to have immediately grasped three points. First, he could not accept the drafts as they were. Presenting himself as a true nationalist and reformer, he had to put his own stamp on a treaty and had to get a better deal than had the oligarchs. Second, some mending of fences with the US was required before Washington would even discuss the canal issue with him. The US, he sensed, was not ready to cozy up to a government that had so blatantly flouted the popular will and that lacked even minimum constitutional underpinnings. Third, the canal issue was too complex and far too important to negotiate without some degree of planning and preparation. Torrijos had only the vaguest conception of the underlying issues, even less idea what he wanted to achieve, and virtually no time to devote to the matter. He first had to consolidate his power and learn how to run a government.

By mid 1969 he had apparently begun to feel more secure in his position and confident enough to tackle the canal issue. A canal advisory group was appointed to study the 1967 drafts, and the government-controlled press began to focus on the canal issue. When Torrijos was in New York in September 1969, he told US officials that he would like to resume the negotiations as soon as possible.

Torrijos at that point had developed no clear negotiating goals, strategy, or timetable. Although Torrijos occasionally mentioned that he was under domestic pressure to resume negotiations, the public showed little interest in the canal issue. The people were seized instead with gaining a fix on where the Torrijos government was heading, particularly in internal affairs.

Torrijos' initial push for negotiations may, therefore, have been less an interest in getting talks going as a tactic to get the US to deal with and accept his government. Rather than excite hopes that he would quickly succeed where other governments had failed, Torrijos seemed merely to want to convince the public that the US would negotiate with and support his Provisional Junta Government.

Torrijos' concern over the direction of US-Panamanian relations increased during the next few months. A coup attempt by military rivals in December 1969 was blamed on the US by Panamanian officers who were frantically trying to divert Torrijos' suspicions. In February 1970 an aide to deposed president Arias claimed the US had supported his efforts to organize a coup; when the aide was unable to complete his plans, he fled to safety in the Canal Zone. In July 1970 the three colonels who had led the December coup attempt escaped from jail with the help of a US Navy civilian employee

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residing in the Zone. In August, a Canal Zone policeman who was a Panamanian national confessed that he had used the Zone as a refuge while plotting against the junta and that he had acted as a link between plotters in Miami and anti-government elements in Panama. Torrijos bitterly resented the availability of the Zone as a safe haven for his opponents, and one of his negotiating objectives—full Panamanian jurisdiction over the Zone—began to coalesce. Probably more than ever, Torrijos viewed the resumption of active negotiations as necessary proof of US acceptance of his regime.

In August 1970, as the media began a drumbeat of propaganda against the Zone, Torrijos formally rejected the 1967 drafts, indicating that the government had its own idea on the canal agreement. The frost in US-Panamanian relations persisted, and there were hints that Panama would denounce the 1903 treaty before the United Nations General Assembly. Calmer heads prevailed, however, and instead of a confrontation, there was, in October, an amiable meeting between President Nixon and Panamanian President Lakas, who was visiting the US in conjunction with the 25th anniversary celebration of the UN.

Despite this meeting, US-Panamanian relations remained somewhat roiled as Torrijos made the most of every opportunity to exploit problems with the Zone and to extract maximum propaganda mileage. If the government's agitation over accumulated irritants was the stick used to prod the US toward negotiations, the Torrijos government did not forget the carrot. Panamanian negotiating objectives, to the extent that they were formulated, were couched in very broad and seemingly reasonable terms. Whether deliberate or not, there seemed to be a slurring of differences, an implication that agreement could be reached in short order and a hint that if desires for jurisdiction could be met, then perhaps Panama would be accommodating on other points. In late June 1971 negotiations were formally resumed.

Negotiations—Phase One

The Panamanians approached canal negotiations with an almost religious fervor. They were searching for the promised land and were beyond the point where minor changes or a more cosmetic packaging of the 1903 treaty structure would suffice. It was not out of character, therefore, that when the Panamanian negotiators repaired to the bargaining table, they were ready to stake out a maximum position on broad issues, but were weak on details and limited in flexibility. It quickly became apparent, for example, that Panama saw no possibility for a trade-off between increased jurisdiction and a longer time frame for the treaty. Although the government had

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rejected the 1967 drafts, the drafts were clearly regarded as a bargaining floor. Similarly, all of the concessions that Panama had previously won were considered to be closed to further negotiation. The only question, as the Panamanians saw it, was how the terms could be further improved.

The Panamanians immediately insisted that a new treaty must have a fixed termination date. When they won that point, they indicated they were not pleased with a proposal providing for US control of the present canal for 50 years, the present canal with an added lane of locks another 35 years, and alternatively a sea-level canal for another 40 years—even though the final termination date was earlier than provided for in the 1967 drafts. The Panamanians also demanded an end to the Canal Zone government and the establishment of Panamanian control over all normal governmental responsibilities such as police, fire, hospitals, schools, and the mails. Furthermore, they demanded that Panama be granted full jurisdiction in the Zone within five years, that all US commercial activities be turned over to private ownership within two years, and that all US criminal jurisdiction over Panamanians be ended as soon as a new treaty went into effect. They hinted that US base rights treaties with Spain should set a standard for compensation.

Panama no longer viewed the level of compensation provided by the 1967 drafts—approximately \$20-25 million—as adequate; they suggested instead amounts two and three times as large. Panama insisted that the US cede substantial land and water areas, particularly near Panama City and Colon and that Panama have the final say on secondary uses of the land retained by the US for the operation and defense of the canal. Panama objected to the denial of the canal to nations at war with the US, arguing that the canal should be completely neutral. Although not prepared to discuss defense arrangements in depth, the Panamanians proposed that their own forces play a role in canal defense and that any other functions, such as hemispheric defense, be separately and specifically negotiated.

Even on the issue of canal expansion—virtually the only quid pro quo Panama could offer in return for the myriad concessions sought from the US—Panama remained hard nosed. The negotiators opposed a US request for a straight 25-year option during which a decision on expansion could be made. Instead, Panama argued that the US should have a 15-year option, renewable for two five-year periods and that the US should pay for each renewal.

The junta played down public commentary on the progress of the talks. Nevertheless, the canal issue was kept before the public eye and efforts were

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made to garner declarations of support. The official mood was alternatively optimistic and threatening as the Torrijos government studied the US position and assayed Washington's willingness to compromise.

Late in the summer of 1971, when preparations were beginning for a massive celebration of the third anniversary of Torrijos' seizure of power, Panamanian concern over the progress of the negotiations was reflected in rumors that there would be anti-US demonstrations or even incursions into the Zone. As the anniversary approached, however, Panama apparently had second thoughts. The rumors died down, and at a mammoth rally Torrijos limited himself to a thinly veiled threat to lead the people into the Zone if the negotiations failed.

By November, the air of expectancy about a new canal treaty had shifted to pessimism. Once again the government began to create a more tense and uneasy atmosphere, and its relationship with the Canal Zone government noticeably cooled. Rumors of a student incursion into the Zone again were generated, and Torrijos warned that failure to achieve a satisfactory agreement would lead to a "spontaneous" explosion.

Despite these ill-considered attempts to give the negotiations a nudge, the talks in Washington were proceeding in a businesslike and constructive manner. In December 1971, however, a decision point was reached. The Panamanian negotiators had articulated and then refined their position and, in turn, had received a detailed US offer. There had been a frank and open exchange as both sides explored the issues. The Panamanians had little room for maneuver, however, and returned home for new instructions.

The Panamanian negotiators were probably surprised to find that Torrijos viewed the progress of the negotiations with a jaundiced eye. He was unenthusiastic about the US offer and was not willing to give the negotiators additional flexibility. He was apparently uninformed on details and was not yet prepared to make the hard decisions that were necessary. In short, he did not regard the negotiations with much sense of urgency. When the Panamanian negotiators returned to Washington after the Christmas holidays, it was clear that no basic policy decision had been made.

From January through July 1972, the Panamanian negotiators attempted to persuade Torrijos to issue new instructions so that they could make a reasonable counteroffer. But, aside from four sessions in March, the talks have been stalled because the Panamanian team was not in a position to participate in the negotiations.

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The vindication of the fatherland is on the march!

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Part of the difficulty was caused by a dispute within the Panamanian foreign policy apparatus. With Torrijos playing an essentially negative role—criticizing US proposals rather than suggesting alternative solutions—the negotiators were forced to compete with a number of individuals and groups basically espousing an idealistic, nationalistic line. The Foreign Relations Advisory Council, for example, composed of a number of experts, weighed in with an extremely chauvinistic position. Foreign Minister Tack, though somewhat more reasonable than the council, also advocated an uncompromising stance.

Periodically the US was told that a comprehensive Panamanian position was being drafted. In June, for example, when US negotiators visited Panama, Torrijos claimed that a paper would be ready within ten days. In July, one of the Panamanian negotiators indicated that a position paper, which he described as “flexible” and “really forthcoming,” was almost completed. It was becoming clear by this time, however, that Torrijos was preoccupied with domestic matters, particularly the August legislative elections, and was not interested in pursuing negotiations until after the US elections in November.

The Domestic Situation

In October 1971, during the anniversary celebrations, Torrijos had presented two themes to his audience. He spoke about the canal, and he promised that there would be national elections by the following August. Given the government's limited capacity and Torrijos' own temperament, it was clear that both paths could not be traveled at the same time. It was probably about this time that Torrijos decided to concentrate on the elections rather than on the negotiations.

There were cogent reasons for such a choice. The extralegal nature of his regime had always been a sore point with Torrijos. He had promised elections before, but each time he had allowed the date to slip by. He felt also that there was a direct link between his desire to legitimize the government and his search for a new treaty relationship with the US. Although he spoke of ratifying a treaty through a plebiscite, he believed that the US would not sign a treaty before constitutional government had returned to Panama. He also felt that his bargaining position in the negotiations would be strengthened by an election.

Torrijos perceived the election as little more than a vote of confidence on his rule. Panama's many political parties did not participate in the

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balloting for the 505-member assembly, which was skewed in favor of the rural areas where literacy and sophistication were low and Torrijos' popularity high. The candidates, carefully screened by the government, were mainly local figures without experience in politics.

The assembly was elected in August 1972, convened on 11 September, and remained in session only one month. It had only two rubber-stamp functions: to elect a president and vice president, and to approve a new constitution. The National Guard provided escort officers to each provincial delegation to ensure that delegates were properly informed of Torrijos' wishes. Provisional President Lakas and junta member Sucre were elected constitutional president and vice president. Torrijos, in a "spontaneous" gesture of affection, was granted full powers to continue running the government. The constitution was approved with minimal alternations.

The biggest publicity splash for the assembly was its resolution calling on Torrijos to demonstrate Panama's sovereignty over the Zone by refusing the \$2-million annuity from the US. The resolution was not binding, and the regime claimed that it came as a complete surprise, but Torrijos said in response to reporters' questions that he had no choice but to follow the expressed will of the people.

Negotiations—Phase II

Panamanian leaders have often behaved as though the negotiation of a new canal treaty was of the most critical and sublime urgency—at least until the United States agreed to negotiate. Then negotiations have gone into low gear. Delay and procrastination have become the order of the day, promised positions never appear, and promised compromises never materialize. When agreement finally seems possible, fear sets in and second thoughts develop.

This paradox can be explained rather simply. From a strategic point of view, the abrogation of the 1903 treaty and the development of a new canal arrangement are the most important foreign policy goals of any Panamanian government. But tactically there is always dissonance between the Panamanian diplomat's sense of what is possible to achieve and the Panamanian politician's sense of what Panama's nationalists will accept. In short, Panama seems in some ways better able to cope with US intransigence than with US assent. If the US disagrees with a Panamanian position it can be pilloried, but if it accedes, then the Panamanian position itself becomes suspect. The government wonders whether it understood the full significance of the official position, or indeed, if it asked for enough.

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...and you will have to wait until the next century to see what we can give you!

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This situation still obtains today. The government is divided and unsure of its negotiating tactics. Torrijos is afraid of giving away something he should not and of failing to get something he should. He does want a new treaty, however, and in many ways the time is ripe. He has most of his domestic political necessities taken care of, and now, after four years in power and with the people convinced of his concern for their well-being, he is in a position to redeem some of his promises and substantiate some of his rhetoric.

Torrijos is likely to see the canal issue as the most fruitful pursuit at this time. He tends to concentrate on only one problem at a time, and since the likelihood of achieving quick victories in agriculture or social development is remote, he probably views domestic problems as less promising and more intractable than the treaty issue.

The canal problem, moreover, represents to some extent a constraint on Torrijos. He likes to portray himself as a "revolutionary." Whether he has in mind moderate reform with a slightly nationalistic tinge or ambition to pattern himself on the Peruvian or even the Cuban model, he realizes that it could be counterproductive to be very "revolutionary" before he has completed negotiating a treaty with the US. The government has also been somewhat strapped for funds, and a new treaty would substantially increase revenue. Instead of the approximately \$2 million Panama now gets each year from the US, it could expect to receive \$20-25 million at the very least. This money and the increased borrowing capacity could make a substantial difference in the ability of the regime to promote social and economic reform.

The negotiations also represent something of a constraint on foreign policy. Torrijos, sensitive to his country's traditional reputation as a virtual protectorate of the US, wants to strike an independent pose. Yet so long as the negotiations are under way, he has to factor in the effect which any other foreign policy initiatives would have on the talks.

Torrijos' interest in a treaty does not, of course, derive solely from a desire to be free of certain constraints. The negotiations provide him with an opportunity to win lasting fame and a prominent place in the pantheon of Panamanian patriots. In a sense, replacing the 1903 treaty structure would be the most revolutionary act possible, and Torrijos feels that he is the man who can do it.

This does not mean, however, that he would settle for just any treaty. Not only does he see time on his side, but getting the "wrong" treaty—one

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giving too little to Panama—would be far worse for his reputation than getting no treaty at all. The next election is not until 1978, and there is no public clamor of the sort that would impose a deadline or even a rigid timetable on his conduct of the negotiations.

Given Torrijos' lack of confidence in dealing with the mass of details involved, his negotiating approach will probably continue to concentrate on broad issues and principles. He is likely to keep on playing a reactive role, refining US proposals rather than developing his own detailed position. This approach could work to the advantage of the US. If Torrijos were forced to develop a comprehensive stand, it would probably become the definitive one. Given Torrijos' fear of committing himself and of being outmaneuvered, he would undoubtedly err on the side of caution and arrive at a stance that included all of the nationalistic items suggested by his advisers. He would then find it very difficult to back away.

Torrijos' tastes are for the tangible. He prefers things that the people can readily see and understand, not those that require careful study before they can be identified as a "good deal" for Panama. He wants quick and concrete changes when the treaty is ratified rather than concessions that will be implemented in a decade or two. This, it would seem, is why he has put so much emphasis on a rather brief transition period before turning jurisdiction in the Zone over to Panama.

If Torrijos' basic objectives are met, if he can get fairly complete jurisdiction over the Zone in a relatively short period of time, and if he can significantly shorten the duration period that was embodied in the 1967 drafts, then a treaty agreement may be possible in 1973. The Panamanians, to be sure, would bargain hard on the other issues, some of which have not yet really been explored. Nevertheless, there would be a flexibility on such questions that does not now exist on the duration and jurisdiction issues.

Torrijos recognizes that he is in a weak bargaining position. He has little power to force his views on the US and has little to offer. Apart from the right to build a sea-level canal, the US has all that it wants and far more than it would have under a new treaty. Although Torrijos himself is responsible for the delay in negotiations, paradoxically he sees the US at fault for the lack of progress. He seems to feel that he cannot get the US to focus on Panama and that the negotiations are on a back burner in Washington.

As a corollary, Torrijos apparently believes that only when the US sees Panama as a problem will the treaty receive the kind of attention it deserves

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and that only by being tough on all points can he maintain a credible bargaining position. Panama's questioning of the US interpretation of canal neutrality, for example, was probably designed to make a continuation of the status quo seem like a concession. Similarly, its attempt to redefine the US defense role seemed directed at making US retention of military rights seem like a quid pro quo. Torrijos apparently believes, moreover, that pressure tactics will work, that a hard, perhaps even an uncompromising, stance is the only way to win further concessions. Finally, there is the feeling, born of insecurity and self doubt, that only by squeezing a little bit more can he be sure that he has, in fact, pushed the US to its final position.

During much of 1972, Panamanian moves seemed designed to increase its nuisance potential and to force the US to take the Torrijos government more seriously. This concern with creating the "proper" psychological climate for negotiations was reflected in numerous attempts at bluster and threat, in statements at international conferences drawing attention to the canal issue, and in efforts by Panamanian ambassadors to mold public sentiment in their favor. The most significant undertaking, however, was the campaign to have the United Nations Security Council meet in Panama City.

Panama has been actively lobbying for such a meeting since September and seems to have the necessary support (9 of 15 affirmative votes). It will probably seek a vote on the question in January. Panama wants the meeting held in March when it is scheduled to chair the council. This would be a big opportunity for Torrijos to develop a world reputation and enhance the prestige of his government. Panama will be on the Security Council only until December 1973, and Torrijos will not be easily persuaded to give up this once-in-a-lifetime opportunity.

Panama has admitted that a major purpose of the meeting would be to focus world and particularly US public attention on the canal issue. It apparently hopes that if it can build up the meeting as a strong possibility, the US may feel compelled to defuse the event by offering generous terms to win agreement on a treaty before March.

Apparently in line with this strategy, the Torrijos government informed the US in late October that it is prepared to resume negotiations, but in Panama rather than in Washington. Foreign Minister Tack, however, based Panama's proposal on an earlier letter from the US, which had restated the American position. Tack chose to interpret the letter as indicating a new willingness by the US to compromise. Tack's reply as well as other government statements seem to indicate that Panama intends to stand pat on the

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basic issues of jurisdiction and duration, seeking but not offering compromises, and relying on the US to supply the initiative.

Torrijos' efforts to demonstrate to Washington that he could be tough have always been balanced by signals that he was really quite reasonable. When Cuba seized two US-owned Panama-flag ships that allegedly were involved in illegal activity against Cuba, Torrijos tried to be helpful in securing the release of the crew. He pointedly avoided, moreover, causing any problems during the US presidential campaign. In sum, Torrijos has exhibited a sense of pragmatism and realism. He has kept his "yankee baiting" within controlled limits and, while occasionally causing the US some discomfort, has always backed off when the situation threatened to become serious.

Thus, while believing that a Security Council meeting in Panama would give his government bargaining leverage, even if negotiations do not bear fruit by March, it is unlikely that Torrijos will automatically carry out the implied threat to embarrass the US at the meeting. During a meeting, Panama would probably seek to conduct itself with maturity and restraint lending credibility to its assertions that it is prepared to assume responsibility for control of the Canal Zone. Of course, even if Panama were on its good behavior, a Security Council session in Panama would not be painless for the US. Panama would probably lobby extensively for its position behind the scenes. There might be "guided tours" along the Canal Zone borders and unfavorable comments regarding the status quo from foreign journalists and diplomats. While the government would certainly try to prevent any irresponsible incidents, it might feel compelled to allow some public expression of nationalist sentiment for a new canal arrangement. After March, Torrijos would evaluate the progress of the negotiations, particularly any new US offers on jurisdiction and duration. He would then re-examine his tactics and decide whether to step up the pressure or move toward serious negotiations.

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